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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/317,986	05/25/1999	HIDENORI YAMANAKA	Q54509	9754

7590 11/20/2003

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EXAMINER	
PRATT, CHRISTOPHER C	

ART UNIT	PAPER NUMBER
1771	

DATE MAILED: 11/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/317,986	YAMANAKA ET AL.	
	Examiner	Art Unit	
	Christopher C Pratt	1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *25 September 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,6,8,10 and 18-22* is/are pending in the application.

4a) Of the above claim(s) *11-17* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,6,8,10 and 18-22* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

13)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

a) ☐ The translation of the foreign language provisional application has been received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1, 18, and 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harwood et al (6130292) or Auerbach (EP 709499) each in view of Fukata (4454189), as set forth in the previous two actions.

Applicant states that they did not receive the advisory action sent on 9/25/03. The advisory action entered the amendment and set forth the following response to applicant's arguments:

> Applicant argues that Fukata does not teach or suggest the narrower claimed range of non-Newtonian Coefficient (N) instantly claimed. Applicant argues that the narrower range of 1.05-1.2 is critical because it results in superior processing conditions comprising meltbown stability without clogging of the nozzles in a die. Applicant has submitted data in the form of Table 2 in an attempt to support this position. However, applicant's data is not congruent with applicant's argument and conclusion. Applicant argues that only the critical narrow range of 1.05-1.20 provides the superior processing conditions. Yet, example 1, of Table 2, shows that an N outside of applicant's supposed critical range results in "good" processing conditions. Therefore, applicant's data conflicts with the conclusion that the claimed narrower range is critical to provide superior processing conditions. It appears that either applicant's testing methods are flawed or non-Newtonian Coefficient is not directly related to processing

conditions. Applicant has failed to show criticality or unexpected results for the claimed range.

Previously applicant submitted a chart showing a direct relationship between melt viscosity and non-Newtonian coefficient. Applicant now appears to argue that there is no such relationship. However, applicant fails to explain how the previously submitted graph was incorrect and how melt viscosity and non-Newtonian coefficient's are related. Applicant currently cites Table 3 showing that melt viscosities within a range of 295-320 all possess the claimed N values. The examiner again notes that Auerbach teaches the limited melt viscosity range of 200-400 (col. 4, lines 23). Harwood teaches a viscosity of 300 (col. 4, lines 16-48). It is the examiner's position that the fact that both Auerbach and Harwood teach applicant's claimed melt viscosity provides more evidence that both references lead the skilled artisan towards an N of 1.05-1.2.

For the reasons set forth above and in the previous actions, it is the examiner's position that Fukata's range is sufficiently narrow to provide evidence that the skilled artisan was in possession of the desirability to have an N of 1.05-1.2. The examiner notes that Fukata does not teach that N can be .9 or 2, but rather teaches that N must be above .9 and below 2 (col. 4, lines 9). It would be well within the level of ordinary skill in the art to modify Fukata's teaching in order to find the optimum N within .9-2.

Applicant's arguments with respect to claim 6 and Senga have been addressed in previous actions.

Applicant's current arguments change the values in the table such that only N values within the claimed range result in "good" processing conditions. However, as applicant points out the table does not provide evidence that the N values are solely responsible for better processing conditions because fiber diameter is not constant. In

order to accurately test a variable (N) all other variables (fiber diameter) must be kept constant.

Applicant again argues that the prior art teaches a broad range of N values. However, as pointed out above, Fukata further limits the teaching of N values from .9-3 to .9-2. Thus, Fukata teaches that values closer to 1.05-1.2 are superior to N values above 2.

3. Claims 6, 8, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harwood et al (6130292) or Auerbach (EP 709499) each in view of Fukata (4454189) and Senga (EP 353717), as set forth in the previous two actions.

Applicant has not pointed out supposed errors in this rejection.

4. Claims 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harwood et al (6130292) or Auerbach (EP 709499) each in view of Fukata (4454189), Senga (EP 353717), and either Yu (5266674), Stoner et al (5079079), or Ramsey (4923971), as set forth in the previous two actions.

Applicant has not pointed out supposed errors in this rejection.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Pratt whose telephone number is 703-305-6559. The examiner can normally be reached on Monday - Friday from 7 am to 4 pm.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

Christopher C. Pratt
November 10, 2003